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TO

PERIOD COVERED: 06/30/1994 TO

Notice of Lifting of Suspension Date:

TO: { Directors Of Field Operations, Port Directors }

FROM: { Director AD/CVD & Revenue Policy & Programs }

RE: SAMPLE SCENARIOS TO ASSIST IN THE PROPER APPLICATION OF  
COUNTERVAILING DUTIES ON SOFTWOOD LUMBER FROM CANADA (C-122-816)

MESSAGE NO: 4181115 DATE: 06 30 1994

CATEGORY: CVD TYPE: INF

REFERENCE: REFERENCE DATE:

CASES: C - 122 - 816 - -

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PERIOD COVERED: 06 30 1994 TO

LIQ SUSPENSION DATE:

TO: REGIONAL DIRECTORS, COMMERCIAL OPERATIONS  
DISTRICT DIRECTORS, AREA AND PORT DIRECTORS

FROM: DIRECTOR, TRADE COMPLIANCE DIVISION

RE: SAMPLE SCENARIOS TO ASSIST IN THE PROPER APPLICATION OF  
COUNTERVAILING DUTIES ON SOFTWOOD LUMBER FROM CANADA  
(C-122-816)

CANADIAN SOFTWOOD LUMBER  
CVD

INSTRUCTIONS TO CLARIFY THE APPLICATION OF THE COUNTERVAILING  
DUTY ORDER ON SOFTWOOD LUMBER FROM CANADA (C-122-816)

offices, the following specific scenarios have been prepared to clarify the application of CVD to Canadian softwood lumber. This document was prepared by the National Import Specialist, Paul Garretto, and reviewed by the Department of Commerce, International Trade Administration.

## 1. Canadian Softwood Lumber Imported from a Third Country

- a. Lumber is sold and shipped from Canada to a third country. Subsequently, the lumber is sold and shipped to the U.S.

### CVD is applicable.

- b. Canadian lumber is imported to the U.S. and CVD is paid. The lumber is then sold to a third country. Later, the lumber is returned to the U.S. in the same condition.

## Identification of the lumber exported and reimported is critical. Generally, there is nothing identifying the lumber, e.g. I.D. numbers, special markings, etc. which can clearly establish the identity of the lumber.

## Documentation presented at entry only establishes quantity and not identity.

### CVD is applicable.

On a case by case basis, if at time of entry summary, the importer can show that the identity of the lumber was maintained and show that substitution was not possible,

CVD would not apply.

## 2. Planed Lumber

- a. Lumber is planed by the manufacturer. It is then sold to a second mill in Canada where it is remanufactured. During the remanufacturing process, the lumber is planed again.

### Since the manufacturing mill has planed the lumber, the manufacturing mill is the first mill for CVD value determination.

- b. Lumber is planed by the manufacturer and follows the same scenario as in "a" above.

However, in this case, the planing is performed in a manner which is not within the accepted industry standards. In addition, the planing has no reasonable purpose other than to influence the value used in calculating the CVD.

### In this case, the remanufacturing mill is the planing mill; therefore, the remanufacturing mill is the first mill for CVD value determination.

## 3. Kiln-Drying

The principals applicable to planing are also applicable to kiln-drying. Kiln-drying is part of the "first mill FOB price."

#### 4. Exempt Provinces

NOTE: The province exemption does not apply to lumber manufactured in the Maritime Provinces from provincially-owned timber harvested in other provinces.

- a. Lumber is produced in an exempt province. It is sold and shipped directly to the U.S. by a seller located in the exempt province.

### No CVD applies.

- b. Lumber is produced in an exempt province. The lumber is shipped directly to the U.S. from the exempt province, but it is sold by a company located outside the exempt province.

### No CVD applies.

- c. Lumber produced in an exempt province is sold to the U.S. However, it is transhipped via a non-exempt province and

1. through bill of lading has been submitted,
2. diversion is not possible according to the conditions of the sale,
3. the commercial invoice clearly shows the conditions of the sale.

### No CVD applies if the proper documentation is presented at entry summary time. Bonding for appropriate documents is not permissible.

- d. Lumber is produced in an exempt province. The lumber is shipped from the exempt province to a non-exempt province. In the non-exempt province, the lumber is

warehoused for a period of time . Later it is sold and shipped to the U.S.

### CVD applies because the identity of the lumber can not be unequivocally determined.

On a case by case basis, if at time of entry summary, the importer can show that the identity of the lumber was maintained and show that substitution was not possible, CVD would not apply.

e. Lumber is shipped from an exempt province to a non-exempt province where it is remanufactured or processed. After processing, the lumber is sold and shipped to the U.S.

### CVD applies.

## 5. Exempt Companies

NOTE: a) The exempt company must be the lumber manufacturer.

b) It assumed that the exempt company continues to meet the criteria originally presented to the Department of Commerce in the exclusion request.

a. Lumber is manufactured, sold, and shipped directly to the U.S. by an exempt company.

### No CVD applies.

b. Lumber is manufactured by an exempt company and sold to a second company in Canada. The second company takes ownership of the lumber and sells it to the U.S. The

lumber is shipped directly to the U.S. from the exempt company.

### No CVD applies.

- c. Lumber is manufactured by an exempt company and sold to a second company in Canada. The second company takes possession of the lumber and warehouses it in Canada. At a later time, the second company sells and ships the lumber to the U.S.

### CVD applies; the identity of the lumber cannot be maintained and substitution is possible.

- d. Lumber is manufactured by an exempt company and sold to a second company in Canada. The second company remanufactures or processes the lumber. the lumber is then sold and shipped to the U.S.

### CVD applies.

## 6. American Goods Returned

- a. U.S. lumber is sold and-or shipped to Canada. At a later time, the lumber is returned to the U.S. No processing was done in Canada. The lumber was not advanced in value or improved in condition.

# Identification of the lumber exported and reimported is critical. Generally, there is nothing identifying the lumber, e.g. I.D. numbers, special markings, etc. which can clearly establish the identity of the lumber.

Documentation presented at entry summary only

establishes quantity and not identity.

### CVD applies; the identity of the lumber can not be maintained and substitution is possible.

On a case by case basis, if at time of entry summary, the importer can show that the identity of the lumber was maintained by the use of special markings, numbers, etc. and show that substitution was not possible, CVD would not apply.

b. U.S. lumber is sold and/or shipped to Canada. In Canada it undergoes a processing. After being processed, the lumber is returned to the U.S.

### CVD applies on the full value of the lumber (in condition as returned to the U.S.)

#### 7. "First Mill's FOB Price-Remanufactured Lumber

(i) "First mill's FOB price": the price charged by the manufacturing mill, or if the manufacturing mill does not plane the lumber, the price charged by the planing mill.

(ii) Remanufactured lumber: lumber which has been processed as follows:

- 1) cutting to length (does not include trimming),
- 2) cutting to width,
- 3) edge working, e.g., tongue and groove.



- a. A Canadian mill produces and remanufactures lumber. The mill sells the lumber directly to the U.S.

### The mill's price to the U.S. is the "first mill's FOB price." <sup>a</sup>No deduction for remanufacturing is allowed.<sup>b</sup>

- b. A lumber manufacturer sells rough lumber to a second Canadian mill. The second mill planes the lumber and sells to the U.S.

### The second mill is the planing mill. Therefore the second mill's FOB price to the U.S. is considered the "first mill's FOB price."

- c. A lumber manufacturer sells rough lumber to a second Canadian mill. The second mill planes and remanufactures the lumber. The second mill then sells the lumber to the U.S.

### The second mill is the planing mill. Therefore the second mill's FOB price to the U.S. less the cost for the remanufacturing is considered the "first mill's FOB price."

- d. A mill manufactures, planes, kiln-dries, trims, grades, stickers, and packs lumber. The mill sells the lumber to a Canadian wholesaler. The wholesaler sells the lumber to the U.S. in the same condition.

### The manufacturing mill is also the planing mill. Therefore, the manufacturing mill's price to the wholesaler, less any included freight, is considered the "first mill's FOB price."

- e. The same scenario as "d"; in addition the lumber is

further processed by tongue and groove along the edges.

### Since the manufacturer is also the planing mill,  
the price to the wholesaler is considered the  
"first mill's FOB price." If the  
remanufacturing is done by the wholesaler, the  
cost of the remanufacturing and any included  
freight should be deducted, otherwise only the  
included freight should be deducted.

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It is the responsibility of the shipper-importer to clearly  
present to Customs all the facts in a claim for CVD exemption or  
on the value to be used to calculate CVD. The required  
information and documentation must be presented at the time of  
entry summary.

If the required information and supporting documents are not  
present with the entry summary, CVD is applicable.

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## Company Details

\*Party Indicator Value:

I = Importer, M = Manufacturer, E = Exporter, S = Sold To Party